THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26213 of 1996

Dated:17.1.2007

Between
Ch.Satyananda Murthy

.....Petitioner

and

1. Government of AP rep., by its
Secretary, Cooperation Department,
Secretariat Buildings, Hyderabad and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26213 of 1996

ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to the proceedings in Rc.No.1426/96-B, dated 23.10.1996 on the file of the 2nd respondent and the consequential orders dated 25.11.1996 of the 3rd respondent in terminating the services of the petitioner and quash the same as arbitrary and illegal.

It appears that the petitioner was initially appointed as a clerk in the 3rd respondent Society on 14.6.1995 on daily wage basis in pursuance of the resolution passed by the person-in- charge on the same date. Prior to that, pursuant to the resolution passed by the Society, he worked as Clerk during the period from 30.1.1995 to 21.3.1995. The minimum qualification prescribed for

the post of clerk is SSLC. According to the petitioner, he possessed necessary qualifications for being appointed as a clerk. On 31.7.1995, the new Managing Committee has taken charge of the affairs of the Society. The new Managing Committee has no objection and accordingly the 3rd respondent continued the services of the petitioner and the petitioner is discharging the functions as a clerk to the best satisfaction of the 3rd respondent. The 3rd respondent sent proposals for regularization of the services of the petitioner to the 2nd respondent in the month of April, 1996. Under Section 116 C, the Society shall have power to fix the staffing pattern, qualification, pay scales and other allowances for its employees with the prior approval of the Registrar of the Cooperative Societies. The society can fix its staffing pattern with the approval of the Registrar of the Cooperative Societies and at the same time, the Society is empowered to appoint the personnel at its discretion by following procedure contemplated for

the purpose. The 3rd respondent society is having four posts of clerks and the same are approved by the District Co-operative Officer, Eluru *vide* proceedings dated 21.9.1990. Out of four clerks, one ESN Murthy tendered his resignation in the month of May, 1995. In his place, the petitioner was appointed by the 3rd respondent society on 14.7.1995 and the said appointment was sent for approval of the 2nd respondent. But, the 2nd respondent without applying his mind passed the impugned order dated 23.10.1996 directing the 3rd respondent to remove the petitioner from service. Aggrieved by the same, the present writ petition is filed.

The 2nd respondent filed a detailed counter-affidavit denying the allegations made by the petitioner and it was asserted that on 14.6.1995 authorization was given to the Secretary of the respondent Bank to appoint the petitioner. But the Secretary of the Bank did not give any orders to the petitioner appointing him as a clerk. Therefore, the

petitioner continued un-authorizedly up to 21.3.1996, on which date, the services of the petitioner were terminated by the Board of Management. Subsequent to that, he continued unauthorizedly from 21.3.1996. As such, by virtue of relationship with the Secretary, he continued in the service till he was removed on 30.11.1996.

Be that as it may, while admitting the writ petition, on 6.12.1996, this Court granted interim suspension of the impugned order. Subsequently, the said interim order was sought to be vacated by filing WVMP No.2179 of 1997 dated 13.11.1997 and the interim order passed on 6.12.1996 was made absolute and the vacate stay petition was dismissed. By virtue of the said order, the petitioner is continuing as on today. Thus, since 10 years, the petitioner has been continuing in the said post. According to the petitioner, no notice of any kind was issued before terminating his services under the impugned proceedings. This fact is not denied by the respondents. Therefore, passing the impugned is in gross violation of principles of

natural justice. Therefore, the impugned order is liable to be quashed. Accordingly quashed.

However, the respondents are at liberty to issue appropriate notice to the petitioner and take action as per law, if there is any such necessity as of now. Till such time, the services of the petitioner shall not be dispensed with.

The writ petition is allowed accordingly. No costs.

_____

17-01-2007

rkk